

Regarding the rejection of Claims 1-37 under 35 U.S.C. §102(b), Applicants wish to note that the subject matter of Claims 6-21 have been incorporated into Claims 1, 16 and 31 (in which the subject matter of Claim 16 was written in means plus function language inherently arising from the subject matter of Claim 16). Applicants believe that amended Claims 1, 16 and 31 are allowable as a result as discussed below.

Amended Claim 1 recites a method comprising the steps of transmitting a signal prompting a user to provide profile data over a computer network, transmitting a manufacturer's sample offer to the user's if the user's profile data meets the user profile criteria associated with the manufacturer's sample offer, generating instructions for providing the sample of the product to the user if the user accepts the manufacturer's sample offer, and transmitting a solicitation for feedback regarding the product from the user. Claim 16 recites substantially the same subject matter in an apparatus claim. Claim 31 recites substantially the same subject matter in means plus function format as noted above.

The step of soliciting customer feedback following product sampling, which can be a prohibitively expensive yet invaluable tool in marketing, makes product sampling and marketing more efficient. *See Specification page 1, line 18 to page 2, line 24.*

Manufacturers must attempt to garner as much information about a product as possible and solicitation of feedback provides the manufacturer an opportunity to begin a dialog with the consumer for this purpose at low cost. *See Id.* Feedback from the consumer helps manufacturers determine which aspects of the product the user found appealing, positive and negative characteristics of the product can be explored, and potential problems with the packaging and delivering mechanism used to deliver the sample can be realized. *See Id.*

Applicants respectfully note that no teaching of a solicitation for feedback is present in the reference to Scroggie. Although the Office Action and the Answer allege that

Scroggie teaches transmitting a solicitation for feedback by sending an e-mail or prompting user 10 to provide an evaluation of the product during product registration, the process of registration clearly does not include solicitation for feedback. *See Scroggie at page 9, line 22 through page 10, line 2.*

Scroggie teaches when the consumer has finished selecting products being offered he or she may elect to go to the final list. Prior to generation of the final list the consumer will be required to enter a valid Internet address for e-mail and to select a supermarket in his or her area. *See Scroggie page 9, line 22 to page 10 line 2.* As noted above, soliciting feedback, for the purposes of the present invention, involves improving the products which are marketed to the consumer. Thus, merely prompting a consumer to provide a valid Internet address and to select a supermarket in his or her area does not qualify as soliciting feedback.

Indeed, wherever Scroggie refers to receiving information from the customer, no references comprise a solicitation for feedback. For example, Scroggie describes asking the customer to complete a marketing questionnaire 602. *Scroggie, page 22, lines 4-5.* This questionnaire requests selected personal or demographic information which the consumer may elect to volunteer. Since personal or demographic information would not provide the manufacturer with any information about specific problems with the marketed product.

Scroggie also describes evaluating an incentive such as a coupon following the creation of the coupon. *Scroggie, page 17, lines 22-29,* however the process of evaluation clearly refers to a method of ensuring that the incentive or coupon contains the correct information by the provider of the incentive and not to evaluation of the product described in the incentive by the consumer as in the present application.

Therefore, since Scroggie clearly does not anticipate transmitting a solicitation for feedback regarding the product to the consumer, Claims 1, 16 and 31, which define that limitation, are allowable. Thus, the rejection of these claims is believed to be overcome.

Applicants also respectfully note that both the Office Action and the Examiner's Answer imply the method of transmitting a solicitation for feedback and the system of transmitting a solicitation of feedback are anticipated in the art. See *Office Action pages 6 and 11-12 and Examiner's Answer pages 7 and 12*.

Applicants respectfully assert that if this phrase is intended to imply the teachings of Scroggie should be combined with the teachings of the art, the proper grounds of rejection would be under 35 U.S.C. §103(a) not 35 U.S.C. §102(b). Rejections under 35 U.S.C. §102(b) are proper only if the Examiner finds a printed publication or a patent which was published or issued more than one year prior to the effective filing date of the application which disclosed the claimed invention. *MPEP 706.02(a)*.

If indeed the Examiner intended to issue a 35 U.S.C. §103(a) rejection, according to *MPEP §706.02(j)*:

"there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claimed limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on Applicants' disclosure."

Clearly, these basic criteria have not been met in either the outstanding Office Action or the Examiner's Answer.

Therefore, Applicants respectfully assert that a prima facie case of obviousness under 35 U.S.C. §103(a) has not been met. Thus, Applicants respectfully request that a rejection of Claims 1, 16 and 31 on these grounds be withdrawn.

Lastly, Applicants respectfully note that since the incorporation of the subject matter of Claims 6 and 21 into Claims 1, 16 and 31 does not introduce new issues into the prosecution, this amendment should be entered.

Consequently, in view of the present amendment and in light of the above discussion it is respectfully submitted that the pending claims are patentably distinguishing over the applied prior art. Accordingly, the present application is believed to be in condition for a formal allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Robert C. Mattson
Registration No. 42,850



22850

(703) 413-3000
Fax #: (703) 413-2220
GJM:RCM:smi

I:\atty\HI\77910081-am.wpd

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IN THE CLAIMS

Please amend the claims as follows:

--1. (Amended) A computer network implemented method, comprising the steps of:
transmitting a signal prompting a user to provide profile data including identification
of the user from a main computer over a computer network to a network address for the user's
computer;

B₁ transmitting a manufacturer's sample offer from said main computer over said
computer network to said network address for said user's computer if said user's profile data
meets user profile criteria associated with a manufacturer's sample offer for a sample of a
product; and

generating instructions for providing said sample of said product to said user if said
main computer receives a signal transmitted over said computer network indicating said user
accepts said manufacturer's sample offer;

transmitting a solicitation for feedback regarding said product from said main
computer over said computer network to said network address for said user's computer.

Claim 6 (Cancelled).

B₂ 16. (Amended) A computer network system, comprising:
a main computer, said main computer configured:

to transmit a signal prompting a user to provide profile data including identification of the user from over a computer network to a network address for the user's computer;

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cont. to transmit a manufacturer's sample offer from said main computer over said computer network to said network address for said user's computer if said user's profile data meets user profile criteria associated with a manufacturer's sample offer for a sample of a product;

to generate instructions for provide said sample of said product to said user in response to receipt of a signal transmitted over said computer network indicating said user accepts said manufacturer's sample offer; and

to transmit a solicitation for feedback regarding said product from said main computer over said computer network to said network address for said user's computer.

Claim 21 (Cancelled).

31. (Amended) A computer program product storing computer instructions for performing a network implemented method, said program comprising means for performing the steps of:

B3 transmitting a signal prompting a user to provide profile data including identification of the user from a main computer over a computer network to a network address for the user's computer;

transmitting a manufacturer's sample offer from said main computer over said computer network to said network address for said user's computer if said user's profile data meets user profile criteria associated with a manufacturer's sample offer for a sample of a product;

generating instructions for providing said sample of said product to said user if said main computer receives a signal transmitted over said computer network indicating said user

accepts said manufacturer's sample offer; and

to transmit a solicitation for feedback regarding said product from said main computer

over said computer network to said network address for said user's computer.--
